

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Kevin Brathwaite,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1542-GMS
)	
Thomas Carroll, Warden, et al.,)	Trial by Jury Demanded
)	
Defendants.)	

STATE DEFENDANT'S MOTION TO DISMISS

State Defendant by and through undersigned counsel, hereby moves this Honorable Court to enter an order dismissing Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12 (b) (6) for failure to state a claim upon which relief can be granted. In support of this motion, State defendant presents a *Memorandum of Points and Authorities in Support of Her Motion to Dismiss* filed simultaneously herewith.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters
Ophelia M. Waters, I.D. #3879
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Counsel for State Defendant

Dated: October 30, 2006

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FOR THE DISTRICT OF DELAWARE**

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Plaintiff,)	
)	C.A. No. 04-1542-GMS
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)	Trial by Jury Demanded
Thomas Carroll, Warden et al.,)	
)	
Defendants.)	

ORDER

AND NOW, this _____ day of _____, 200____, *State Defendant Violet Dunn's Motion To Dismiss* in the above-captioned matter having been duly considered, and any opposition thereto, is granted; and,

IT IS ORDERED that judgment be and is hereby entered against Plaintiff and in favor of the State Defendant.

The Honorable Gregory M. Sleet, Judge
United States District Court

CERTIFICATE OF MAILING AND/OR DELIVERY

The undersigned certifies that on October 30, 2006 she caused the attached *State Defendant Violet Dunn's Motion to Dismiss* to be delivered to the following persons in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENT(S):

Kevin C. Brathwaite, Inmate
SBI #315294
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

MANNER OF DELIVERY:

One true copy by facsimile transmission to each recipient
 Two true copies by first class mail, postage prepaid, to each recipient
 Two true copies by Federal Express
 Two true copies by hand delivery to each recipient

/s/ Ophelia M. Waters

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